

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

ALL YEAR HOLDINGS LIMITED,

Debtor.

AYH WIND DOWN LLC, through Ofer Tzur and
Amir Flamer, solely in their joint Capacity as
Claims Administrator,

Plaintiff,

-against-

YOEL SILBERSTEIN,

Defendant.

Chapter 11

Case No. 21-12051-mg

Adv. Pro. No. 23-01180-mg

**DECLARATION OF PAUL H. ALOE
IN SUPPORT OF DEFENDANT’S
MOTION TO WITHDRAW THE
REFERENCE AND COMPEL
ARBITRATION**

Paul H. Aloe, an attorney duly admitted to practice law in the courts of the State of New York, declares the following to be true under penalties of perjury:

1. I am a member of Kudman Trachten Aloe Posner LLP, attorneys for defendant Yoel Silberstein (“Defendant”) in the above-captioned action.

2. I respectfully submit this declaration in support of Defendant’s motion for entry of an order: (1) pursuant to 28 U.S.C. § 157(d), Rule 5011 of Federal Rules of Bankruptcy Procedure Rule, and Rule 5011-1 of the Local Bankruptcy Rules for the Southern District of New York, withdrawing the reference of this adversary proceeding from the United States Bankruptcy Court for the Southern District of New York to the United States District Court for the Southern District of New York; and (2) pursuant to 9 U.S.C. §§ 1 *et seq.*, compelling arbitration of the sole claim in plaintiff AYH Wind Down LLC’s (“Plaintiff”) complaint.

3. Attached hereto as Exhibit A is a copy of the complaint that Plaintiff filed in this adversary proceeding on September 19, 2023 (Adv. Pro. ECF No. 1).

4. Attached hereto as Exhibit B is a copy of a promissory note dated March 21, 2028, that was attached as Exhibit A to the complaint (Adv. Pro. ECF No. 1-1).

5. Attached hereto as Exhibit C is a copy of a letter addressed to Defendant dated March 30, 2022, that was attached as Exhibit B to the complaint (Adv. Pro. ECF No. 1-2).

6. Attached hereto as Exhibit D is a copy of Defendant's answer to Plaintiff's complaint that was filed in the adversary proceeding on October 20, 2023 (Adv. Pro. ECF No. 10).

7. Attached hereto as Exhibit E is a copy of the Case Management and Scheduling Order #1 that the Bankruptcy Court entered in the adversary proceeding on October 31, 2023 (Adv. Pro. ECF No. 11).

8. Attached hereto as Exhibit F is a copy of the voluntary chapter 11 petition that All Year Holdings Limited (the "Debtor") filed in the Bankruptcy Court on December 14, 2021 (Bankr. ECF No. 1).

9. Attached hereto as Exhibit G is a copy of a letter from counsel for the Debtor to the Honorable Martin Glenn that was filed in the Bankruptcy Court in the Debtor's chapter 11 case on December 21, 2021 (Bankr. ECF No. 13).

10. Attached hereto as Exhibit H is a copy of the schedules of assets and liabilities that the Debtor filed in the Bankruptcy Court in the Debtor's chapter 11 case on December 28, 2021 (Bankr. ECF No. 15).

11. Attached hereto as Exhibit I is a copy of a letter from counsel for Yoel Goldman ("Goldman") to the Honorable Martin Glenn that was filed in the Bankruptcy Court in the Debtor's chapter 11 case on January 7, 2022 (Bankr. ECF No. 19).

12. Attached hereto as Exhibit J is a copy of the order confirming the Debtor's Third Amended Chapter 11 Plan of Reorganization that was entered in the Bankruptcy Court in the Debtor's chapter 11 case on January 31, 2023 (Bankr. ECF No. 352).

13. Attached hereto as Exhibit K is a copy of the Debtor's Third Amended Chapter 11 Plan of Reorganization that was confirmed by the Bankruptcy Court's order entered on January 31, 2023 (Bankr. ECF No. 352-1).

14. Attached hereto as Exhibit L is a copy of the complete docket sheet from the Debtor's chapter 11 case as obtained from PACER.

15. Attached hereto as Exhibit M is a copy of the complete claims register from the Debtor's chapter 11 case as obtained from PACER.

16. Attached hereto as Exhibit N is a certified English translation of Yiddish language agreement dated November 23, 2015, bearing bates numbers YS000004–YS000014.

17. Attached hereto as Exhibit O is a certified English translation of Yiddish language agreement dated October 1, 2020, bearing bates numbers YS000016–YS000019.

18. Attached hereto as Exhibit P is a release of obligations dated October 2, 2020, bearing bates number YS000020.

19. Defendant produced the documents attached hereto as Exhibits N–P to Plaintiff on November 14, 2023, in connection with Defendant's initial discovery disclosures under Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure. On January 18, 2023, Defendant separately responded to discovery requests that Plaintiff had served.

20. As of the date of this declaration, neither Plaintiff nor Defendant has taken any depositions in connection with adversary proceeding, and neither party has filed any motions

(dispositive or otherwise) seeking rulings from the Bankruptcy Court on any issues in the adversary proceeding.

21. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: New York, New York
February 1, 2024

/s/ Paul H. Aloe
Paul H. Aloe